

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 11, 2003
at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 360, 2/05/2003
Executive Action: HB 120 DO PASS AS AMENDED;
HB 365 TABLED

HEARING ON HB 360**Sponsor: REP. DAVE LEWIS, HD 55, Helena****Opening Statement by Sponsor:**

REP. LEWIS said this provides an early termination, not an early retirement incentive to state employees. The agencies know they will have to cut budgets and maybe have reductions in force (RIFs). This will let employees terminate early rather than be locked in because of need for health insurance. Close to 1,000 are eligible for retirement, which will save money for the general fund. He explained the bill's sections.

It does not affect retirement benefits; the fiscal note is predicated on 558 employees leaving. Some 400 of the vacated positions will be eliminated, saving \$35 million for the biennium. "A one-time payment of \$13 million is needed to get this going, and possibly will come from the Coal Tax Trust Fund, which would need a 3/4 vote," he said. It will take money out of HB 2. Employees could take the 3% incentive up front or as an annuity. The intent is to give options with this helping toward their health insurance costs. The university system is not in the bill. The bill would save 2.5 times the initial appropriation.

An option is to borrow from the Trust and have agencies pay it back over six to eight years, for example by having a 1/2% vacancy savings. Those taking the option must stay in the state insurance pool. Agencies would have flexibility in managing it. Agencies could refill at entry level or hold positions open. The downside is it may be a brain drain, but will bring in new people. Employees who leave can come back for a limit of 960 hours/year.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.8}

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association (MPEA), said this bill had the unanimous vote of the MPEA Board and had more calls on this than any bill ever. They would prefer an early retirement bill but the market is down and PERS can't do it. In the early 1990's, Montana did an early retirement plan and gave 10 years to finance it, so there is a precedent. The 3% could pay for insurance, buy time toward retirement, or they could take cash. Those with 25 years in are eligible, but if not 60 years old, they lose 6% for each year of service under 30. Thus they would only get 70% of the retirement benefit. He is open to including the university system.

{Tape: 1; Side: A; Approx. Time Counter: 13.8 - 21.1}

Opponents' Testimony:

Todd Lovshin, Montana Education Association/Montana Federation of Teachers (MEA/MFT), said there are problems with RIFs and workload. If positions are held open or hiring is frozen, those left will have to do more work. There are no exemptions for direct care workers at institutions. The fiscal note has technical problems past 2006 in paying annuities. He would like employees to have a pay raise plus a retirement/termination incentive, but MEA/MFT likes the annuity idea. He distributed a fact sheet.

EXHIBIT (sth30a01)

{Tape: 1; Side: A; Approx. Time Counter: 21.1 - 23.7}

Informational Testimony:

C.D. Avery, Legislative Audit Division, was present to answer questions.

John McEwen, State Personnel Division Administrator, was present to answer questions.

Questions from Committee Members and Responses:

REP. SMITH asked the sponsor about borrowing from the Trust and paying back at 1/2%. **REP. LEWIS** replied that that was not the interest rate. They would take 1/2% of the total payroll of \$650 million/year, and there would be \$3-4 million/yr. to repay over 10 years. **REP. SMITH** asked if this is an unfunded mandate for the next Session. **REP. LEWIS** replied that the budget would be built on a 1/2% vacancy savings but the next Session is not bound to repay because this is not binding.

REP. LEHMAN said if the employee used the incentive to purchase five years of service, there would be an impact on the state share of PERS. **REP. LEWIS** replied that employees must pay the full actuarial cost on both sides (theirs plus the employer's), so it will be pricey. **REP. LEHMAN** asked if they return to the job, if the 960 hours is in statute. **REP. LEWIS** replied it is in existing law. **Ms. Heffelfinger** pointed out Page 3, Lines 6-8. **REP. LEHMAN** asked about Page 3, Section 4, Line 10, about a payout of leave credit regarding the agency budget. **The sponsor** said the leave payout is contentious; agencies must cover it with vacancies, versus this bill would pay for that leave.

REP. BROWN said MEA/MFT wanted the universities in, and asked if they could do that like schools do. **The sponsor** replied, "Not

without statutory authority, but there is probably no reason why not; they can afford to fund it." **REP. DICKENSON** asked about Page 6, Section 8, Item 9, if they could stay in the insurance pool for only five years. He answered affirmatively. She asked about Section 9, 1(c) transferring money from fiscal years. **REP. LEWIS** replied that that applies to DNRC only; they need money to cover spring fires. **REP. DICKENSON** said the fiscal note was not signed. He replied that it was a timing problem, but he agrees with it. She said the technical note does not fund the payout.

The sponsor deferred to **C.D. Avery, Legislative Audit Division**, who said the numbers vary because of assumptions. He said they should ask State Personnel how many may take advantage of the option; it will change the savings possible. If more than 578 people leave, it will cost more up front but save more in the long term.

REP. BALLANTYNE asked **REP. LEWIS** how they could get rid of 400 employees, and why the agencies don't reduce forces. He said there were layoffs at the old SRS in the mid-1980's but "it's hard to get to the right people." This is a better way than a RIF or across-the-board-cut, which would take out people they would want to keep. He deferred to **John McEwen**, who stated that under current law, if they retired, they can stay forever in the health plan. It doesn't cut anybody off.

REP. WINDY BOY asked if the fiscal note about the Coal Trust money was a "guesstimate." **The sponsor** replied that they invest in bonds and the gains depend on when you sell; it is hard to guess how much will be gained. They need to let the Board of Investments have flexibility, he said. **REP. WINDY BOY** asked about a loan from the Trust. **The sponsor** said it needs a 3/4 vote. **REP. BERNIE OLSON** asked about other funding options. **REP. LEWIS** replied that the bill is written to appropriate money. Option two is borrowing it; it could be borrowed from another source, but it may be at a higher cost.

REP. OLSON asked if they could do as schools do and let their highest-paid people go, so it would be self-funding. **The sponsor** said the fiscal note concludes there will be a net profit (\$34 million at a cost of \$14 million). He made the bill contingent on HB 2 for funding, whereas schools have a reserve fund they use.

REP. GIBSON asked Mr. Schneider if the many phone calls were folks interested in this bill, or just wanting an early out. **Mr. Schneider** replied they were interested in this bill. She asked about the point of his testimony on HB 13 that referred to

employees working harder because of cuts. She asked if they cut 400, who would do the work and if services would decline. He replied that employees are demoralized because they want out and secondly, they see people above them who have been with the state a long time. If those folks leave, the lower level folks can move up. They are looking for a way to improve their situation.

REP. YOUNKIN asked the sponsor if there was a problem with employees not wanting to use the Coal Trust. He replied there was not one call against it! **REP. LEHMAN** asked if there is a disincentive to retire if they are age 55 versus 60. The answer was they can take the annuity for up to 10 years. He deferred to **Mr. McEwen**, who replied that an employee who is 55 with 25 years service is retirement eligible and can stay in this plan forever. **REP. LEHMAN** asked if the last five years from age 60 to 65 wouldn't be out-of-pocket for retired employees. **The sponsor** said, "Yes, but so would the first five years; the employee is free to spend the annuity as they like."

REP. JACOBSON asked sponsor if the Coal Trust is not to be a funding source, if another scenario would produce the \$14 million. He replied they could derive it elsewhere but it would impact the general fund. He said if they reduce the general fund, they would lose revenue from the interest on the \$13 million. **REP. JACOBSON** asked for the bottom line -- if he would support it if the money came from the Coal Trust. **The sponsor** said it is a major concern to not lay the obligation on agencies with 400 vacancies. He asked **Mr. McEwen**, who said the state operates with 800 vacant at all times. **The sponsor** said if they retire, they are in the health plan. If not, the limit is five years.

REP. LENHART said he was still hung up on the first technical note. The Coal Trust will fund until September 2006, which is the middle of the next biennium. **The sponsor** said his estimate is based on the number of retirees. If the assumption in the fiscal note is correct, then if they limit funding to the amount in HB 360, they cannot fund it. **REP. LENHART** asked about cleaning up the language. He said next Session will be looking for more money. **The sponsor** said the size of the fund needed to cover the cost depends on how many take advantage. More savings will put more into the general fund. He mentioned an amendment to change the bill.

REP. WAGMAN asked if the \$35 million savings was gross or net. **The sponsor** replied it is gross, minus the \$14 million expense, based on the number of vacancies. There is a one-time

appropriation based on the cost of initiating. The net total is \$22 million saved per biennium plus \$11 million to the general fund. **REP. BECKER** asked if savings would be spread over a number of agencies. The answer was yes, it helps them lower their budgets. The savings is from reductions and from the new folks coming in at a lower rate.

REP. DICKENSON asked about health insurance. She added, "If a worker is age 49 and takes the option, stays on it five years, then can they be part of the retirement plan and come back into the insurance pool?" **REP. LEWIS** replied that they could.

{Tape: 1; Side: A; Approx. Time Counter: 23.7 - 62}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.4}

Closing by Sponsor:

REP. LEWIS said this was a complicated bill. He distributed a technical amendment to define state agency, and said the bill could possibly be amended to add the university system.

EXHIBIT (sth30a02)

EXECUTIVE ACTION ON HB 120

Motion: **REP. LENHART** moved HB 120 DO PASS.

Motion: **REP. ALAN OLSON** moved HB 120 AMENDMENTS (12002.ash).

EXHIBIT (sth30a03)

Discussion:

REP. OLSON said it tightens up the definition of detention officer. He asked Ms. Heffelfinger if this amendment can take the place of the conceptual amendment. She replied that it would. **REP. BROWN** asked her if it changes what PERS said, that they need a 20% increase to make it actuarially sound; she asked if they should have a new fiscal note. **Ms. Heffelfinger** said they can request one after they pass the amendment, but she doesn't know how it will affect their assumptions. She asked **REP. A. OLSON** if it will decrease the number going into the sheriff's retirement. **REP. OLSON** said, "It is wide-open in the bill." **CHAIRMAN BARRETT** said very few counties requested this.

REP. GIBSON asked **REP. OLSON** if the primary duties clause was gone. **REP. OLSON** replied that it was replaced by this amendment. **REP. BALLANTYNE** thought it helped the bill. **REP. JENT** liked it because it refers to MCA definition in 44-4-302. He asked

sponsor if he intended to include the detention officer administrators. **REP. LENHART** answered affirmatively. Question was called.

Vote: On a voice vote, motion carried 19-0.

Motion: **REP. LENHART** moved HB 120 DO PASS AS AMENDED.

Discussion:

REP. BROWN wanted a new fiscal note. **CHAIRMAN BARRETT** noted it will go to the House floor with a new fiscal note. **REP. OLSON** said they must request it. **REP. YOUNKIN** said the fiscal note will show no net impact to the general fund. If they are narrowing the pool, it probably will have less impact, so they don't need the fiscal note. **CHAIRMAN BARRETT** said they would not request one. Question was called.

Vote: On a voice vote, motion carried 17-2. Voting no were **CHAIRMAN BARRETT** and **REP. SMITH**.

EXECUTIVE ACTION ON HB 365

Motion: **REP. BALLANTYNE** moved HB 365 DO PASS.

Motion/Vote: **REP. ROBERTS** moved HB 365 BE TABLED, a non-debatable motion. On a roll call vote, motion carried 13-6. Voting no were **REPS. BALLANTYNE, DICKENSON, GIBSON, JACOBSON, LENHART & WINDY BOY**.

Discussion: **REP. GIBSON** asked how the employee pay bills "work together" as **REP. LEWIS** had mentioned. **CHAIRMAN BARRETT** appointed **REPS. A. OLSON, BROWN and SMITH** to a subcommittee to meet today on HB 13 & HB 461. They will report back to committee this week.

Todd Lovshin, Montana Education Association/Montana Federation of Teachers (MEA/MFT) provided information requested earlier about state employees' pay; bills HB 13, HB 360 and HB 461 all deal with that.

EXHIBIT (sth30a04)

EXHIBIT (sth30a05)

ADJOURNMENT

Adjournment: 9:55 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth30aad)